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(i) Detailed information regarding the impact of the supplemental budget on each affected program area, including costs by cost category, project or activity;

(ii) A statement regarding how the supplemental budget facilitates the strategic and policy goals of the PCAOB;

(iii) Information indicating why the amount was not included in the budget for the current year, including a description of any subsequent and unforeseen events or circumstances necessitating the supplemental budget request;

(iv) Information indicating why the request should not or cannot be postponed until the next regular annual budget process; and

(v) The proposed source for the funds, including any offsets to be made elsewhere in the PCAOB's programs and activities.

(g) *Maintenance of records; reports.* (1) The PCAOB shall maintain, and make available to the Commission or Commission staff upon request, a strategic plan and records in reasonable detail that support each preliminary budget, budget, budget justification, supplemental budget and other report or communication in compliance with this section, including past and projected receipts, outlays, obligations, and employment levels.

(2) The PCAOB is required to maintain and, within 30 business days after the end of each fiscal quarter, to furnish to the Commission a report of its spending and staffing levels for the quarter just ended, comparing those levels to the levels in the Commission approved budget.

(h) *Publication of budget.* (1) Following submission of the PCAOB-approved budget to the Commission, such budget and budget justification, subject to any applicable exemption under the Freedom of Information Act, shall be made available to the public. Neither the Commission nor the PCAOB shall publish a preliminary budget, budget, budget justification, or any underlying materials in connection therewith, until such time as the budget is approved by the PCAOB and submitted to the Commission for its approval.

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(2) Supplemental budgets shall be made public, following approval by the PCAOB and submission to the Commission, in the same manner as described in paragraph (h)(1) of this section.

(3) The Commission-approved budget shall be made available to the public at the time of such approval.

(i) *Waivers of rule provisions.* The Commission, in its discretion, may waive compliance with any provision of this §202.11.

[71 FR 42001, July 24, 2006]

PART 203—RULES RELATING TO INVESTIGATIONS

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AUTHORITY: 15 U.S.C. 77s, 77sss, 78w, 80a–37, and 80b–11, unless otherwise noted.

SOURCE: 29 FR 3620, Mar. 21, 1964, unless otherwise noted.

Subpart A—In General

§203.1 Application of the rules of this part.

The rules of this part apply only to investigations conducted by the Commission. They do not apply to adjudicative or rulemaking proceedings.

§203.2 Information obtained in investigations and examinations.

Information or documents obtained by the Commission in the course of any investigation or examination, unless made a matter of public record, shall be deemed non-public, but the Commission approves the practice whereby officials of the Divisions of Enforcement, Corporation Finance, Market Regulation and Investment Management and the Office of International Affairs at

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the level of Assistant Director or higher, and officials in Regional Offices at the level of Assistant Regional Director or higher, may engage in and may authorize members of the Commission's staff to engage in discussions with persons identified in §240.24c-1(b) of this chapter concerning information obtained in individual investigations or examinations, including formal investigations conducted pursuant to Commission order.

[58 FR 52419, Oct. 8, 1993, as amended at 59 FR 5945, Feb. 9, 1994; 73 FR 32227, June 5, 2008]

§ 203.3 Suspension and disbarment.

The provisions of §201.102(e) of this chapter (Rule 102(e) of the Commission's rules of practice) are hereby made specifically applicable to all investigations.

[29 FR 3620, Mar. 21, 1964, as amended at 60 FR 32823, June 23, 1995]

Subpart B—Formal Investigative Proceedings

§ 203.4 Applicability of §§ 203.4 through 203.8.

(a) Sections 203.4 through 203.8 shall be applicable to a witness who is sworn in a proceeding pursuant to a Commission order for investigation or examination, such proceeding being hereinafter referred to as a *formal investigative proceeding*.

(b) Formal investigative proceedings may be held before the Commission, before one or more of its members, or before any officer designated by it for the purpose of taking testimony of witnesses and received other evidence. The term *officer conducting the investigation* shall mean any of the foregoing.

§ 203.5 Non-public formal investigative proceedings.

Unless otherwise ordered by the Commission, all formal investigative proceedings shall be non-public.

§ 203.6 Transcripts.

Transcripts, if any, of formal investigative proceedings shall be recorded solely by the official reporter, or by any other person or means designated by the officer conducting the investigation. A person who has submitted docu-

mentary evidence or testimony in a formal investigative proceeding shall be entitled, upon written request, to procure a copy of his documentary evidence or a transcript of his testimony on payment of the appropriate fees: *Provided, however,* That in a nonpublic formal investigative proceeding the Commission may for good cause deny such request. In any event, any witness, upon proper identification, shall have the right to inspect the official transcript of the witness' own testimony.

(15 U.S.C. 78d-1)

[37 FR 25166, Nov. 28, 1972]

§ 203.7 Rights of witnesses.

(a) Any person who is compelled or requested to furnish documentary evidence or testimony at a formal investigative proceeding shall, upon request, be shown the Commission's order of investigation. Copies of formal orders of investigation shall not be furnished, for their retention, to such persons requesting the same except with the express approval of officials in the Regional Offices at the level of Assistant Regional Director or higher, or officials in the Division or Divisions conducting or supervising the investigation at the level of Assistant Director or higher. Such approval shall not be given unless the person granting such approval, in his or her discretion, is satisfied that there exist reasons consistent both with the protection of privacy of persons involved in the investigation and with the unimpeded conduct of the investigation.

(b) Any person compelled to appear, or who appears by request or permission of the Commission, in person at a formal investigative proceeding may be accompanied, represented and advised by counsel, as defined in §201.101(a) of this chapter (Rule 101(a) of the Commission's rules of practice): *Provided, however,* That all witnesses shall be sequestered, and unless permitted in the discretion of the officer conducting the investigation no witness or the counsel accompanying any such witness shall be permitted to be present during the examination of any other witness called in such proceeding.